

SENATE BILL 18

R4

EMERGENCY BILL
(PRE-FILED)

0lr0491
CF 0lr1100

By: **Senators Raskin, Stone, Colburn, DeGrange, Exum, ~~and Glassman~~
Glassman, Edwards, Klausmeier, Frosh, Gladden, Brochin, Forehand,
Haines, Jacobs, Mooney, Muse, and Simonaire**

Requested: August 18, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 22, 2010

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws – Manufacturers, Distributors, and Factory Branches – Benefits**
3 **to Employees of Dealers**

4 FOR the purpose of repealing certain provisions relating to a manufacturer,
5 distributor, or factory branch providing certain benefits, payments, or gifts to an
6 employee of a vehicle dealer; providing that an incentive payment, a
7 reimbursement payment, cash, a gift, or a thing of value to be given by a
8 manufacturer, distributor, or factory branch to an employee of a dealer may be
9 given directly to the employee or to the dealer to be distributed to the employee
10 in a certain manner; requiring a manufacturer, distributor, or factory branch to
11 make certain information available to a dealer about an incentive payment, a
12 reimbursement payment, cash, a gift, or a thing of value totaling more than a
13 certain amount that is given directly to an employee of the dealer; providing for
14 the application of this Act; making this Act an emergency measure; and
15 generally relating to manufacturers, distributors, and factory branches.

16 BY repealing and reenacting, with amendments,
17 Article – Transportation
18 Section 15–212.1
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Transportation**

4 15–212.1.

5 (a) Upon the filing of a claim, a manufacturer, factory branch, or distributor
6 shall compensate a dealer for any incentive or reimbursement program sponsored by
7 the manufacturer, factory branch, or distributor, under the terms of which the dealer
8 is eligible for compensation.

9 (b) (1) A claim filed under this section shall be:

10 (i) In the manner and form prescribed by the manufacturer,
11 factory branch, or distributor; and

12 (ii) Approved or disapproved within 30 days of receipt.

13 (2) A claim not approved or disapproved within 30 days of receipt shall
14 be deemed approved.

15 (3) Payment of a claim filed under this section shall be made within 30
16 days of approval.

17 (c) (1) If a claim filed under this section is shown by the manufacturer,
18 factory branch, or distributor to be false or unsubstantiated, the manufacturer, factory
19 branch, or distributor may charge back the claim within 6 months from the payment of
20 the incentive or reimbursement.

21 (2) This paragraph does not limit the right of a manufacturer, factory
22 branch, or distributor to:

23 (i) Conduct an audit of any claim filed under this section; or

24 (ii) Charge back for any claim that is proven to be fraudulent.

25 (3) An audit under this paragraph shall be conducted according to
26 generally accepted accounting principles.

27 (d) A manufacturer, distributor, or factory branch may not refuse to pay, or
28 claim reimbursement from, a dealer for sales, incentives, or payments related to a
29 motor vehicle sold by the dealer because the purchaser of the motor vehicle exported or
30 resold the motor vehicle in violation of the policy of the manufacturer, distributor, or
31 factory branch unless the manufacturer, distributor, or factory branch can show that,
32 at the time of sale, the dealer knew or should have known of the purchaser's intention
33 to export or resell the motor vehicle.

1 [(e) (1) A manufacturer, distributor, or factory branch may not give any
2 incentive payment, reimbursement payment, cash, gift, or anything of value totaling
3 more than \$200 in any calendar year directly to an employee of the dealer.

4 (2) Any incentive payment, reimbursement payment, cash, gift, or
5 anything of value from a manufacturer, distributor, or factory branch to an employee
6 shall be made to the dealer who shall disburse the funds to the employee as part of the
7 payroll process after making the appropriate deductions.

8 (3) The dealer may retain a reasonable portion of any payments under
9 paragraph (2) of this subsection to cover the cost of processing the payments.]

10 **(E) (1) THIS SUBSECTION APPLIES ONLY TO AN INCENTIVE PAYMENT,
11 A REIMBURSEMENT PAYMENT, CASH, A GIFT, OR A THING OF VALUE EARNED BY
12 AN EMPLOYEE OF A DEALER ON OR AFTER MAY 1, 2009.**

13 **(2) (I) AN INCENTIVE PAYMENT, A REIMBURSEMENT PAYMENT,
14 CASH, A GIFT, OR A THING OF VALUE TO BE GIVEN BY A MANUFACTURER,
15 DISTRIBUTOR, OR FACTORY BRANCH TO AN EMPLOYEE OF A DEALER MAY BE
16 GIVEN:**

17 **1. DIRECTLY TO THE EMPLOYEE; OR**

18 **2. TO THE DEALER TO BE DISTRIBUTED TO THE
19 EMPLOYEE.**

20 **(II) AN INCENTIVE PAYMENT, A REIMBURSEMENT PAYMENT,
21 OR CASH GIVEN TO A DEALER FOR DISTRIBUTION TO AN EMPLOYEE UNDER THIS
22 PARAGRAPH SHALL BE DISTRIBUTED TO THE EMPLOYEE AS PART OF THE
23 PAYROLL PROCESS AFTER THE APPROPRIATE PAYROLL DEDUCTIONS HAVE
24 BEEN MADE BY THE DEALER.**

25 **(3) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH
26 SHALL MAKE INFORMATION AVAILABLE TO A DEALER ABOUT ANY INCENTIVE
27 PAYMENT, REIMBURSEMENT PAYMENT, CASH, GIFT, OR THING OF VALUE
28 TOTALING MORE THAN \$200 IN A CALENDAR YEAR THAT IS GIVEN DIRECTLY TO
29 AN EMPLOYEE OF THE DEALER.**

30 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2010.~~

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
33 measure, is necessary for the immediate preservation of the public health or safety,
34 has been passed by a yea and nay vote supported by three-fifths of all the members

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1 elected to each of the two Houses of the General Assembly, and shall take effect from
2 the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.